

AGREEMENT ON THE RECOGNITION OF PRODUCT LABELS BY DGNB

between

DGNB GmbH

legally represented by the Managing Director Johannes Kreißig
Tübinger Strasse 43
70178 Stuttgart, Germany

- hereinafter referred to as "**DGNB GmbH**" -

and

COMPANY NAME

legally represented by NAME OF LEGAL REPRESENTATIVE
STREET
POSTCODE PLACE

- hereinafter referred to as "**Applicant**" -

DGNB GmbH and Applicant are hereinafter jointly referred to as the "**Parties**".

PREAMBLE

1. **WHEREAS**, DGNB GmbH evaluates projects on the basis of the DGNB certification system developed by the German Sustainable Building Council (Deutsche Gesellschaft für Nachhaltiges Bauen - DGNB e.V.) (hereinafter "**DGNB e.V.**") and awards the DGNB Certificate after a successful conformity check. The DGNB Certificate evaluate a variety of criteria that enable a comprehensive evaluation of the sustainability of the project ("**Criteria**").

In order to simplify the provision of evidence when using the DGNB certification system and to promote the dissemination of standards / quality seals (hereinafter referred to as "**Labels**") for products used in the construction industry where the requirements of such Labels correspond to those in the DGNB certification system, DGNB GmbH recognises Labels as evidence for certain criteria content if the verification of the Label has led to a positive result. The Label may therefore serve as evidence within the framework of certification of a project that a specific product meets certain content requirements and thus facilitates the provision of evidence for individual criteria for the project to be certified.

2. **AND WHEREAS**, the Applicant is a standard-setting organisation and awards Labels for construction products or components and seeks recognition of its Label as a "DGNB Recognised Standard" for a/several certain criteria-specific quality level(s) (hereinafter "**Recognition**"). This procedure is open to all standard-setting organisations that comply with the content requirements of the DGNB GmbH and award labels for construction products or components.

The recognition of a Label does not determine the quality of a Label as a whole, but is to be understood as a compliance check (plausibility check) of the requirements for the label with selected DGNB criteria contents.

3. **AND WHEREAS**, DGNB GmbH has three types of requirements: general requirements, systemic requirements and content requirements (hereinafter "**DGNB Requirements**"). These DGNB Requirements are updated from time to time and adapted to the latest findings. If it is demonstrated for one or several clearly defined product groups that a Label complies with the DGNB requirements, this Label may be recognised by DGNB GmbH after a successful plausibility check. Labels recognised by DGNB GmbH and their criteria-specific degrees of fulfilment (such as certification level or comparable differentiation) are published in a list on the DGNB website. In the list, compliance with the DGNB requirements is indicated in the form of DGNB GmbH quality levels.

The DGNB GmbH accepts no liability for information published by third parties about the DGNB Requirements for recognition being up-to-date, complete and otherwise accurate.

4. **AND WHEREAS**, the Applicant wishes to have its Label recognised by DGNB GmbH.

NOW, THEREFORE, the Parties enter into the following Agreement, which regulates, among other things, the allocation of roles, remuneration, procedures and the parties' obligations to cooperate:

§ 1 Application (information supplied by the Applicant)

The registration of the Label with the DGNB GmbH shall be binding for the Applicant. The Applicant will, in particular, enter the following information using the input fields provided for this purpose:

- for which Label the Applicant is seeking Recognition; and
- if relevant - which degree of fulfilment (such as certification level or comparable differentiation) the Label has; and
- for which DGNB criteria-specific quality level the Applicant is seeking Label Recognition.

§ 2 Course of the Recognition procedure

2.1 The Recognition procedure shall be divided into several steps/actions.

2.2 These work steps/actions shall be:

- 2.2.1 Binding registration of the Label with DGNB GmbH (including the information according to Clause 1).
- 2.2.2 Submission of the complete set of information/documents/evidence documents required for the plausibility check to DGNB GmbH by the Applicant; the required documentation/evidence documents are defined accordingly in the DGNB Requirements of DGNB GmbH.
- 2.2.3 Check of the submitted documents/evidence documents by DGNB GmbH (hereinafter "**Plausibility Check**").
- 2.2.4 Provided that the respective requirements are met: Recognition of the Label by DGNB GmbH as "DGNB Recognised Standard" for a/several certain criteria-specific quality level(s).

§ 3 General obligations of the Parties to cooperate and revocation

3.1 DGNB GmbH will perform the Plausibility Check on the basis of the documents/evidence documents submitted by the Applicant as soon as the Check Requirements described in Clause 4 below are met. In case of a positive result of the check, which is limited to the verification of the compliance of the submitted documents/evidence documents with the DGNB Requirements, the DGNB GmbH shall recognise the Label of the Applicant.

The Applicant shall not be entitled to DGNB GmbH making use of any remaining scope for assessment and discretion in the Applicant's favour.

Furthermore, DGNB GmbH shall be free to revoke Recognition of a Label if and to the extent that it becomes aware of circumstances according to which Recognition should not have been granted or should not have been granted in the specific way. This shall apply in particular if it should subsequently become evident that the Label does not correspond to the documents/evidence documents/information submitted for the check. Recognition of a Label shall be revoked by written notification to the Applicant; DGNB GmbH shall also reserve the right to inform about the revocation on its website or through other publications. Upon receipt of the Revocation, the Applicant shall be deprived of any rights conferred in connection with the Recognition.

- 3.2 The Applicant undertakes to pay for the services of DGNB GmbH (cf. Clause 10 below) and to comply with the documentation requirements (cf. Clause 7 below).

§ 4 Conditions for the Plausibility Check ("Check Requirements" for Recognition)

- 4.1 DGNB GmbH will carry out the Plausibility Check as soon as the Applicant has fulfilled the following points:
- 4.1.1 Binding registration of the Label in accordance with Clause 2.2.1.
 - 4.1.2 The remuneration was paid to DGNB GmbH in accordance with Clause 10.
 - 4.1.3 The documents/evidence documents/information described in Clause 2.2.2 have been submitted in full to DGNB GmbH.
- 4.2 In justified exceptional cases, DGNB GmbH may temporarily waive full compliance with individual Check Requirements, without third parties being entitled to corresponding equal treatment.

§ 5 Plausibility Check procedure & communication

- 5.1 The Plausibility Check shall always be carried out on the basis of the version of the DGNB Requirements of DGNB GmbH valid at the time of the conclusion of the Agreement. In the course of the Plausibility Check it shall be checked whether the Label complies with the DGNB Requirements of DGNB GmbH.

As soon as it has been proven that the Check Requirements have been met (cf. Clause 4), DGNB GmbH will conduct a Plausibility Check. DGNB GmbH shall record the results of this check in a "**Check Report**", which is sent to the Applicant. The Applicant shall comment on the Check Report (letter of consent). As soon as the Applicant has given its consent, the Label is recognised by DGNB GmbH.

Further check runs are not provided for. The result of the check shall be binding in this respect, unless the Parties agree on a second check, which shall be additionally remunerated by the Applicant in accordance with Clause 10.2. As soon as the final consent of the Applicant with the second Check Report is available, the Label is recognised.

- 5.2 DGNB GmbH reserves the right, at its reasonable discretion, to discontinue the check if the associated DGNB Requirements for the Label are clearly not met. In this case, the Applicant shall pay compensation in accordance with Clause 10.6.
- 5.3 DGNB GmbH does not determine the quality of a Label as a whole during the Plausibility Check. Rather, the compliance of the Label with the DGNB Requirements shall be checked on the basis of the documents/evidence documents and information submitted by the Applicant.
- 5.4 The Applicant may promote the Label with the designation "DGNB Recognised Standard" unless the label was revoked or is no longer valid.
- 5.5 DGNB GmbH will publish the recognised Label and the corresponding Check Report on its website until further notice.

- 5.6 Until revoked, DGNB GmbH shall be entitled to refer to the Recognition of the Label in its various external communication channels and vis-à-vis third parties (website, press releases, etc.).

§ 6 Special obligations of DGNB GmbH

- 6.1 DGNB GmbH will provide the following services:
- receipt of the registration of the Label with DGNB GmbH;
 - check in accordance with Clause 5, whereby DGNB GmbH shall employ suitable persons to perform the check and owes a maximum of one check run, i.e. shall have the right to refuse Recognition if the check does not lead to the desired check result. In this case a remuneration shall be due.
- 6.2 DGNB GmbH does not recognise the Label until the Plausibility Check has been successfully completed.
- 6.3 Consulting services of DGNB GmbH in connection with the specific application of the DGNB Requirements shall not be part of this Agreement. They are to be commissioned additionally and remunerated as agreed.
- 6.4 Applications shall be treated confidentially by DGNB GmbH until the announcement of the Label Recognition. This shall not be the case if the Applicant expressly wishes to have it published. This shall be notified to DGNB GmbH in writing.

§ 7 Specific obligations of the Applicant

- 7.1 The Applicant shall provide DGNB GmbH with the information/documents/evidence documents in accordance with the DGNB Requirements. In principle, the associated documents and information are to be submitted to DGNB GmbH in their entirety in digital form, in special exceptional cases in paper form. DGNB GmbH may amend these transmission requirements at its reasonable discretion. The Applicant shall be responsible for the completeness and correctness of the documents/evidence documents/information.
- 7.2 Documents/evidence documents/information that are not listed in the DGNB Requirements, but which are or should be additionally required for verification by DGNB GmbH, shall also be submitted on request in a structured and comprehensible form.
- 7.3 The Applicant warrants the correctness and completeness of all relevant information provided and documents/evidence documents submitted to DGNB GmbH.
- 7.4 DGNB GmbH must be notified in writing of any changes to the information provided in the application based on the DGNB Requirements within 28 days of the change occurring. In the event of incorrect or incomplete evaluation-relevant information/documents, the Recognition may be subsequently revoked (see Clause 3.1.3). In this case no remuneration already paid shall be refunded.
- 7.5 The Applicant grants DGNB GmbH and DGNB e.V. the right to use the logo of the Applicant's Label for the DGNB website during the term of this Agreement.

- 7.6 It cannot be ruled out that DGNB Requirements may be updated by DGNB GmbH at its own discretion after conclusion of this Agreement in order to reflect the latest state of the art or newer findings. If the Recognition of the Label is affected by upcoming changes to the DGNB Requirements, the Applicant will be informed of this. Existing agreements shall not be affected by this until the subsequent review (see Clause 9).

§ 8 Changes to the Label

- 8.1 The Applicant shall be obliged to notify DGNB GmbH of any changes to the documents/evidence documents/information that have an influence on the Recognition of the Label. After reviewing the change, DGNB GmbH will decide on the continued validity of the Recognition within four weeks. If significant changes to the Label are to be checked, additional fees will be charged for this. Clause 10.3 shall apply accordingly. If it turns out that after the change, the Label no longer meets the DGNB Requirements, the Applicant may no longer use the Recognition as soon as the DGNB GmbH notifies the Applicant accordingly in writing. Upon receipt of the written notification, the Applicant shall be deprived of any rights conferred in connection with the Recognition. DGNB GmbH will remove the Recognition of the Label from its website accordingly and inform the public that the Label is no longer DGNB-recognised.
- 8.2 DGNB GmbH shall be entitled to demand evidence from the Applicant if there is reasonable suspicion that the checked and recognised Label no longer meets the DGNB Requirements. If the suspicion is confirmed, the Applicant may no longer use the Recognition once he has received written notification to this effect from DGNB GmbH. Clause 8.1 sentences 6 and 7 shall apply accordingly.

§ 9 Validity of Recognition

- 9.1 The Recognition shall generally be valid for one year from the date of release of the Check Report by the Applicant according to Clause 5.1.2. In principle, a validity of the Recognition for a period beyond the aforementioned period of validity shall be possible. After expiry of the one-year period, the Applicant must confirm the validity of the check to DGNB GmbH in writing within 3 months or, in the event of deviations (in particular changes to the award criteria), submit additional or new documents/evidence documents to DGNB GmbH. If further documents/evidence documents are submitted, DGNB GmbH shall carry out the Plausibility Check in accordance with Clause 5. If significant changes to the Label are to be checked, additional fees will be charged for this in accordance with Clause 10.3.

This shall not affect the Applicant's obligation under Clause 8 to inform DGNB GmbH of any changes.

- 9.2 DGNB GmbH shall extend the validity of the Label Recognition for a further year upon receipt of written confirmation from the Applicant in accordance with paragraph 1 or upon a successful follow-up check performed by DGNB GmbH and release of the Check Report by the Applicant.
- 9.3 Recognition beyond the period of validity in paragraph 2 is in principle possible for each additional year in accordance with the requirements in Clause 9.1.

§ 10 Remuneration for Plausibility Check services

- 10.1 As standard remuneration for the Plausibility Check services under this Agreement, DGNB GmbH shall receive from the Applicant an amount of **EUR 2,200.00** plus VAT at the statutory rate. This standard remuneration (without additional services) shall be due upon signing of the Agreement.

DGNB members do not need to pay the aforementioned standard remuneration.

- 10.2 If, exceptionally, the Parties have agreed on an additional check run which is not provided for in the normal procedure, the additional remuneration to be agreed between the Parties and payable before the start of the additional check shall be

EUR 550.00 € plus VAT at the statutory rate.

- 10.3 For the check of significant changes to the Label in the context of the desired renewal of the Recognition beyond the validity date according to Clause 9.1, fees to be determined by the DGNB GmbH at its due discretion will be incurred, which will be shown to the Applicant in advance in the form of a quote and will be invoiced upon corresponding approval. When assessing the amount of the fee, DGNB GmbH will in particular take into account its efforts required for the check.

- 10.4 DGNB GmbH shall invoice the fee. Invoices shall be due for payment within 14 days of the invoice date. Payment shall be made to the following account of DGNB GmbH at **GLS Bank** stating the number of the invoice:

IBAN: DE37 4306 0967 7031 8196 00

BIC (Swift): GENODEM1GLS

The date on which the amount is credited to the account shall be decisive for the receipt of payment.

- 10.5 Until full payment for the Plausibility Check services has been received, DGNB GmbH shall be entitled to withhold the Check Report in accordance with Clause 5.1.2 and to only release it after receipt of payment.
- 10.6 There shall be no repayment of remuneration. This shall also apply if the Applicant cancels the application or if Recognition cannot be granted.

§ 11 Amendments

DGNB GmbH shall be entitled to change the content of the DGNB Requirements for the respective next Check (see Clause 9). The Applicant shall be informed of this. If the Applicant does not make use of his extraordinary right of termination according to Clause 12.3, the amendments to the present contractual relationship shall be deemed to be agreed.

§ 12 Term

- 12.1 This Agreement shall be valid from the date of execution until the expiry of one year after the month in which the Check Report was released by the Applicant (see Clause 5.1.2, fourth sentence). If the Agreement is not terminated with three months' notice to the end of the month in which the aforementioned fixed term of the Agreement ends, it shall be renewed for another term of one year.
- 12.2 If it turns out that the Applicant's Label does not fulfil or no longer fulfils the DGNB Requirements determined during the Check, both contracting parties shall be entitled - without prejudice to the Applicant's obligation to stop using Recognition - to terminate the Agreement for cause and without notice if, within a reasonable period of time, the Applicant is not able to design the Label in such a way that the DGNB Requirements are fulfilled again.

- 12.3 In the event of an amendment to the Agreement (Clause 11), the Applicant shall be entitled to terminate the Agreement for cause without notice.
- 12.4 Notice of termination shall be made in writing. An e-mail shall not be sufficient to comply with the written form requirement.

§ 13 Liability of DGNB GmbH

- 13.1 The liability of DGNB GmbH shall be limited to reasonably foreseeable damage typical of the contract in case of a slightly or simply negligent breach of material contractual obligations. Apart from that, DGNB GmbH shall be liable for damages caused intentionally or through gross negligence by its vicarious agents (e.g. persons performing the checks), bodies or legal representatives.
- 13.2 DGNB GmbH shall not be held liable for the fact that it differs in any qualitative way from any other providers dealing with the assessment/recognition of labels.
- 13.3 The exclusions and limitations of liability described in Clause 13.1 shall not apply in the event of damage to life, limb or health. In case of unforeseeable damages, liability claims shall be limited to EUR 2,200.00.
- 13.4 Only the Applicant shall be entitled to any liability claims against DGNB GmbH. Should any claims be asserted against DGNB GmbH by third parties, the Applicant shall hold DGNB GmbH harmless from any claims on first demand - without prejudice to any claims of his own against DGNB GmbH.

§ 14 Confidentiality and data protection

- 14.1 DGNB GmbH shall treat the documents/evidence documents and any information received in connection with the Recognition as confidential. The Applicant consents to the storage and processing of this data by DGNB GmbH and/or DGNB e.V. DGNB GmbH and/or the DGNB e.V. shall only pass on this data if and insofar as the Applicant has given its consent.
- 14.2 The Applicant hereby consents to the disclosure of this data to the persons performing the checks and any other third parties to be involved in the process of the check.

DGNB GmbH reserves the right to grant a third party access to the documentation of the fulfilment of the DGNB Requirements for the Label in question, if the third party has a legitimate interest. Information submitted to the DGNB by the Applicant that is marked as confidential, shall be excluded from this.

§ 15 Final provisions

- 15.1 This Agreement shall be governed by the law of the Federal Republic of Germany and is to be interpreted exclusively consistent with German law and usage of terminology. This includes, without limitation, the legal concepts and terms contained in this Contract, the English translations of which may not be identical with the original German terms in their respective legal understanding.
- 15.2 The place of jurisdiction for all legal disputes arising from or in connection with this Agreement (including validity) shall be Stuttgart, Germany.

- 15.3 No supplementary agreements to this Agreement exist. Changes and additions to this Agreement must be made in writing. This written form requirement may also only be waived in writing.
- 15.4 Should any provision of this Agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provisions, the Parties shall agree on a provision that comes as close as legally permissible to what was originally actually and economically intended. The same shall apply to any contractual loopholes.

Stuttgart,

Place, date

Place, date

DGNB GmbH

Applicant